

SENATE BILL No. 486

DIGEST OF INTRODUCED BILL

Citations Affected: IC 7.1-3-4-3; IC 8-17-8-2; IC 10-5-7-1; IC 14-27-8-4; IC 32-1-1-10; IC 32-8; IC 32-15-6-4; IC 36-2; IC 36-4-3-22; IC 36-7-4-208; IC 36-9.

Synopsis: County surveyors. Requires the county surveyor to certify information to the Indiana alcoholic beverage commission concerning a beer retailer permittee located outside the corporate limits of a city or town. Allows the plan commission or county executive to direct the county surveyor to prepare the county road maps. Allows a county to adopt an ordinance assessing a monetary penalty for moving a monument without complying with state law or that is a part of the National Spatial Reference System. Prohibits the filing of a petition for establishing a drainage maintenance and repair district after June 30, 2001. Allows the county surveyor to maintain tax maps and plats. Requires rather than allows the county surveyor to attend the annual Purdue road school. Makes other changes regarding clearing ditch obstructions. Provides that expenses of the county drainage board are paid from the county maintenance fund. Makes changes regarding the following: (1) Clearing ditch obstructions. (2) The drain maintenance fund. Allows the county executive to appoint the county surveyor or the county agricultural educator to an area plan commission. Makes other changes concerning county surveyors.

Effective: July 1, 2001; January 1, 2002.

Wheeler

January 22, 2001, read first time and referred to Committee on Governmental and Regulatory Affairs.



C
o
p
y

Introduced

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

SENATE BILL No. 486

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 7.1-3-4-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. Premises Outside
3 Corporate Limits. (a) The commission may issue a beer retailer's
4 permit for premises situated outside the corporate limits of an
5 incorporated city or town if the premises are within, or in immediate
6 proximity to, an unincorporated town:

7 (1) which has been a settlement or a group of residences for more
8 than ten (10) years; ~~and~~

9 (2) to which the inhabitants of the surrounding countryside resort
10 for purchases or public meetings or as a community or
11 neighborhood center; and

12 (3) which has borne a name and has been known by that name for
13 more than ten (10) years.

14 (b) The county surveyor of the county in which the premises is
15 located shall certify the information set forth in subsection (a) to
16 the commission.

17 SECTION 2. IC 8-17-8-2 IS AMENDED TO READ AS FOLLOWS

2001

IN 486—LS 8016/DI 87+



[EFFECTIVE JULY 1, 2001]: Sec. 2. (a) The plan commission or county executive shall direct the **county surveyor or the** county engineer to prepare the maps. The **county surveyor or the** county engineer may be compensated in addition to the salary the **surveyor or** engineer receives for preparation of the maps, in an amount to be determined by the plan commission or the county executive, subject to the approval of the county fiscal body.

(b) All expenses incidental to the preparation of the maps, including the **county surveyor's and** county engineer's compensation, shall be paid out of the county general fund.

SECTION 3. IC 10-5-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) The state or any political subdivision shall provide upon request, without charge or fee, one (1) certified copy of any document or record if it is shown that the certified copy is necessary to secure benefits to members of the military service, honorably discharged veterans, or their surviving spouses or dependents under any federal or state law.

(b) The state or a political subdivision may collect a charge per copy of not more than the amount specified in ~~IC 36-2-7-10(b)~~ **IC 36-2-7-10(d)** if the person requests more than one (1) certified copy of the document or record. The funds received under this section shall be placed in the general fund of the state or county.

(c) For the purposes of this chapter, "honorably discharged veterans" includes persons placed on inactive duty under honorable conditions but not discharged from military service.

SECTION 4. IC 14-27-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. **(a) A petition requesting the establishment of a drainage maintenance and repair district under this chapter may not be filed after June 30, 2001.**

(b) Twenty percent (20%) of the owners of the real property assessed for a ditch or drain who:

- (1) would benefit by the construction of the ditch or drain; and
- (2) own not less than twenty percent (20%) of the land in acreage that is assessed for the ditch or drain;

may file, in the office of the clerk of a circuit or superior court having jurisdiction in the county in which is located the greatest acreage of the land as last assessed with benefits for the construction or reconstruction of the ditch, a petition requesting the establishment of a drainage maintenance and repair district.

SECTION 5. IC 32-1-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10. (a) Purdue University shall establish the office of geodetic adviser for the state.

C
o
p
y



(b) The geodetic adviser shall be appointed and serve at the discretion of Purdue University. Purdue University shall determine the amount of compensation for the geodetic adviser.

(c) The geodetic adviser is responsible for the implementation of a new system of geodetic control monuments in the form of a high accuracy geodetic reference network that is part of the National Spatial Reference System and that meets the needs of geodetic and geographic information users. The geodetic adviser shall coordinate and assist in following:

(1) The design of the geodetic reference network.

(2) The establishment of any geodetic reference monument.

(3) The maintenance of data base control stations, to the extent that funding is available.

(4) The establishment and implementation of quality control and quality assurance programs for the geodetic reference network.

(5) The assistance and training of users of the geodetic reference network.

(d) The state, a state agency (as defined in IC 4-13-1-1), or a unit (as defined in IC 36-1-2-23) may provide funding from available funds for the activities provided for in this section. A unit (as defined in IC 36-1-2-23) may pay the cost of any geodetic reference monument that is established within the boundaries of that unit.

(e) Money in the county surveyor's corner perpetuation fund collected under IC 36-2-7-10 or IC 36-2-19 may be used for the purposes under this section.

(f) A county legislative body may adopt an ordinance:

(1) prohibiting a person from moving, changing, or otherwise altering a monument that is part of the National Spatial Reference System; and

(2) prescribing a monetary penalty for violation of the ordinance.

Any money collected shall be deposited in the county surveyor's corner perpetuation fund.

SECTION 6. IC 32-8-11-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7. (a) Any mortgage of record or any part of the mortgage may be assigned by the mortgagee or any assignee of the mortgage, either by an assignment entered on the margin of the record, signed by the person making the assignment and attested by the recorder, or by a separate instrument executed and acknowledged before any person authorized to take acknowledgments, and recorded on the margin, or in the mortgage records of the county, in which case the assignment shall be noted in the margin by the



recorder by reference to the book and page or to the instrument number where the assignment is recorded.

(b) The signature of a person on an assignment under subsection (a) may be a facsimile. The facsimile on the assignment is equivalent to and constitutes the written signature of the person for all requirements regarding mortgage assignments.

(c) Notwithstanding subsection (a), marginal assignments may be accepted at the discretion of the recorder. Except in a county that accepts marginal assignments of mortgage, an assignment of mortgage must be recorded on a separate written instrument from the mortgage. If a recorder does so, an instrument presented for recording in that county may not contain more than one (1) assignment. If a recorder allows an instrument to contain more than one (1) assignment, the fee for recording that instrument is provided in ~~IC 36-2-7-10(b)(3)~~. **IC 36-2-7-10(d)(3).**

(d) After entry is made of record, the mortgagor, and all other persons shall be bound by the record, and the same is a public record. Any assignee or assignee's personal representative may enter satisfaction or release of the mortgage, or the part of the mortgage held by the assignee of record.

SECTION 7. IC 32-8-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) It shall be lawful for:

(1) the president, vice president, cashier, secretary, treasurer, attorney-in-fact, or other authorized representative of any national bank, state bank, trust company, or savings bank; or

(2) the president, vice president, general manager, secretary, treasurer, attorney-in-fact, or other authorized representative of any other corporation doing business in Indiana;

to release upon the record mortgages, judgments, and other record liens, upon the payment of the debts secured by the liens.

(b) Such a release, when made upon the margin or face of the record of the mortgage, judgment, or other lien, and attested by the recorder, clerk, or other officer having custody of the record of the lien, shall operate as a full discharge and satisfaction of the lien.

(c) The recorder of each county may require that each release, discharge, or satisfaction of a mortgage, judgment, or lien, or any partial release of any of these, be recorded on a separate written instrument. If a recorder does so, an instrument presented for recordation in that county may not contain more than one (1) release, discharge, or satisfaction. If a recorder allows an instrument to contain more than one (1) release, discharge, or satisfaction, the fee for

C
o
p
y



1 recording that instrument is provided in ~~IC 36-2-7-10(b)(3)~~.
 2 **IC 36-2-7-10(d)(3).**

3 (d) Such a national bank, state bank, trust company, or savings bank,
 4 or other corporation may, in like manner, release and discharge
 5 mortgages, judgments, and other record liens each by a separate written
 6 instrument signed by its corporate name, its president, vice president,
 7 cashier, secretary, treasurer, attorney-in-fact, or authorized
 8 representative of such national bank, state bank, trust company, or
 9 savings bank, or the president, vice president, general manager,
 10 secretary, treasurer, attorney-in-fact, or authorized representative of
 11 such other corporation, which release shall be recorded by the recorder,
 12 clerk, or other officer having custody of the record of the lien, with a
 13 reference on the margin of the record of the lien to the place where the
 14 release is recorded. This release, when recorded, shall operate as a full
 15 discharge and satisfaction of the lien, or portion of the lien, as indicated
 16 in a partial release. However, no release by the attorney-in-fact shall be
 17 entitled to record until an instrument in writing duly signed and
 18 acknowledged by any two (2) officers of the national bank, state bank,
 19 trust company, savings bank, or any other corporation granting
 20 authority, particularly setting forth and specifying the power or
 21 authority given, granted, or conferred, shall have been duly recorded in
 22 the recorder's office of the county where the release is to be recorded.

23 (e) The party conferring the power shall be bound thereby as to all
 24 acts done and performed prior to notice of revoking of the authority,
 25 which notice may be given by a memorandum thereof entered on the
 26 margin of the record of the power of attorney, duly attested by the
 27 recorder, or by a copy of a duly acknowledged memorandum entered
 28 and attested as provided by this section.

29 SECTION 8. IC 32-8-24-2, AS AMENDED BY P.L.57-2000,
 30 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2001]: Sec. 2. (a) Any employee wishing to acquire such lien
 32 upon the corporate property of any corporation, or the earnings thereof,
 33 whether the employee's claim be due or not, shall file in the recorder's
 34 office of the county where such corporation is located or doing
 35 business, notice of the employee's intention to hold a lien upon such
 36 property and earnings aforesaid, for the amount of the employee's
 37 claim, setting forth the date of such employment, the name of the
 38 corporation and the amount of such claim, and it shall be the duty of
 39 the recorder of any county, when such notice is presented for record, to
 40 record the same in the record required by law for notice of mechanics'
 41 liens, for which the recorder shall charge a fee in an amount specified
 42 in ~~IC 36-2-7-10(b)(1) and IC 36-2-7-10(b)(2)~~. **IC 36-2-7-10(d)(1) and**



C
o
p
y

IC 36-2-7-10(d)(2). The lien so created shall relate to the time when such employee was employed by such corporation, or to any subsequent date during such employment, at the election of such employee, and shall have priority over all liens suffered or created thereafter, except other employees' liens, over which there shall be no such priority.

(b) Where:

(1) any person, other than an employee, shall acquire a lien upon the corporate property of any corporation located or doing business in this state;

(2) such lien for a period of sixty (60) days either:

(A) remains a matter of record in the proper place specified in IC 26-1-9.1-501; or

(B) remains otherwise perfected under applicable law; and

(3) no notice of an employee's intention to hold a lien shall have been filed by any employee of such corporation during that period;

then and in that case such lien so created shall have priority over the lien of such employee in the county where such corporation is located or doing business, and not otherwise.

(c) This section shall not apply to any lien acquired by any person for purchase money.

SECTION 9. IC 32-8-24-2.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2.3. (a) Notwithstanding section 2 of this chapter, an employee:

(1) whose claim is for a commission due upon the conveyance of real estate; and

(2) who wishes to acquire a lien on the real estate;

may file a notice in the recorder's office of the county in which the real estate is located of the employee's intention to hold a lien on the real estate.

(b) A notice filed under this section must:

(1) contain the same information required for a mechanic's lien;

(2) state that the claim is due upon the conveyance of the real estate; and

(3) be filed before the conveyance of the real estate by the corporation.

(c) The recorder of any county shall, when notice is presented for recording under this section:

(1) record the notice in the record required by law for notice of mechanics' liens; and

(2) charge a fee in an amount specified in ~~IC 36-2-7-10(b)(1) and~~

C
o
p
y



~~IC 36-2-7-10(b)(2)~~. **IC 36-2-7-10(d)(1) and IC 36-2-7-10(d)(2).**

(d) The lien created under this section must relate to:

- (1) the time when the employee was employed by the corporation;
- or
- (2) any subsequent date during the employment, at the election of the employee;

and has priority over all liens suffered or created after the date, except other employees' liens, over which there is no priority.

SECTION 10. IC 32-15-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. Upon the foreclosure of any recorded mortgage in any court of any county having jurisdiction in this state, and upon the payment and satisfaction of such judgment as may be rendered in such proceeding in foreclosure, the prevailing party shall immediately thereafter show satisfaction of the mortgage to be entered on the records of the recorder's office of such county. The record in foreclosure and satisfaction shall show that the whole debt, secured by the mortgage, has been paid. The recorder shall be paid a fee of not more than the amount specified in ~~IC 36-2-7-10(b)(1) and (2)~~ **IC 36-2-7-10(d)(1) and IC 36-2-7-10(d)(2)** in each case of foreclosure requiring satisfaction.

SECTION 11. IC 36-2-7-10, AS AMENDED BY P.L.241-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10. (a) **As used in this section, "deed" means any document that conveys title of real estate.**

(b) As used in this section, "record" or "recording" includes the functions of recording, filing, and filing for record.

(c) The county recorder shall tax and collect the fees prescribed by this section for recording, filing, copying, and other services the recorder renders, and shall pay them into the county treasury at the end of each calendar month. The fees prescribed and collected under this section supersede all other recording fees required by law to be charged for services rendered by the county recorder.

~~(b)~~ **(d)** The county recorder shall charge the following:

- (1) Six dollars (\$6) for the first page and two dollars (\$2) for each additional page of any document the recorder records if the pages are not larger than eight and one-half (8 1/2) inches by fourteen (14) inches.
- (2) Fifteen dollars (\$15) for the first page and five dollars (\$5) for each additional page of any document the recorder records, if the pages are larger than eight and one-half (8 1/2) inches by fourteen (14) inches.
- (3) For attesting to the release, partial release, or assignment of

C
o
p
y



any mortgage, judgment, lien, or oil and gas lease contained on a multiple transaction document, the fee for each transaction after the first is the amount provided in subdivision (1) plus the amount provided in subdivision (4) and one dollar (\$1) for marginal mortgage assignments or marginal mortgage releases.

(4) One dollar (\$1) for each cross-reference of a recorded document.

(5) One dollar (\$1) per page not larger than eight and one-half (8 1/2) inches by fourteen (14) inches for furnishing copies of records produced by a photographic process, and two dollars (\$2) per page that is larger than eight and one-half (8 1/2) inches by fourteen (14) inches.

(6) Five dollars (\$5) for acknowledging or certifying to a document.

(7) Five dollars (\$5) for each deed the recorder records, in addition to other fees for deeds, for the county surveyor's corner perpetuation fund for use as provided in IC 32-1-1-10 or IC 36-2-12-11(e).

(8) A fee in an amount authorized under IC 5-14-3-8 for transmitting a copy of a document by facsimile machine.

(9) A fee in an amount authorized by an ordinance adopted by the county legislative body for duplicating a computer tape, a computer disk, an optical disk, microfilm, or similar media. This fee may not cover making a handwritten copy or a photocopy or using xerography or a duplicating machine.

(10) A supplemental fee of three dollars (\$3) for recording a document that is paid at the time of recording. The fee under this subdivision is in addition to other fees provided by law for recording a document.

~~(c)~~ (e) The county treasurer shall establish a recorder's records perpetuation fund. All revenue received under subsection ~~(b)(5), (b)(8), (b)(9), and (b)(10)~~ (d)(5), (d)(8), (d)(9), and (d)(10) shall be deposited in this fund. The county recorder may use any money in this fund without appropriation for the preservation of records and the improvement of record keeping systems and equipment.

~~(d)~~ As used in this section, "record" or "recording" includes the functions of recording, filing, and filing for record.

~~(c)~~ (f) The county recorder shall post the fees set forth in subsection ~~(b)~~ (d) in a prominent place within the county recorder's office where the fee schedule will be readily accessible to the public.

~~(f)~~ (g) The county recorder may not tax or collect any fee for:

(1) recording an official bond of a public officer, a deputy, an

C
o
p
y



1 appointee, or an employee; or

2 (2) performing any service under any of the following:

3 (A) IC 6-1.1-22-2(c).

4 (B) IC 8-23-7.

5 (C) IC 8-23-23.

6 (D) IC 10-5-4-3.

7 (E) IC 10-5-7-1(a).

8 (F) IC 12-14-13.

9 (G) IC 12-14-16.

10 ~~(g)~~ **(h)** The state and its agencies and instrumentalities are required
11 to pay the recording fees and charges that this section prescribes.

12 SECTION 12. IC 36-2-7-10.1, AS ADDED BY P.L.151-1999,
13 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2001]: Sec. 10.1. (a) As used in this section, "bulk form"
15 means:

16 (1) a copy of all recorded documents received by the county
17 recorder for recording in a calendar day, week, month, or year;

18 (2) the indices for finding, retrieving, and viewing all recorded
19 documents received by the county recorder for recording in a
20 calendar day, week, month, or year; or

21 (3) both subdivisions (1) and (2).

22 (b) As used in this section, "bulk user" means an individual, a
23 corporation, a partnership, a limited liability company, or an
24 unincorporated association that purchases bulk form copies. However,
25 "bulk user" does not include an individual, a corporation, a partnership,
26 a limited liability company, or an unincorporated association whose
27 primary purpose is to resell public records.

28 (c) As used in this section, "copy" means:

29 (1) duplicating electronically stored data onto a disk, tape, drum,
30 or any other medium of electronic data storage; or

31 (2) reproducing on microfilm.

32 (d) As used in this section, "indices" means all of the indexing
33 information used by the county recorder for finding, retrieving, and
34 viewing a recorded document.

35 (e) As used in this section, "recorded document" means a writing,
36 a paper, a document, a plat, a map, a survey, or anything else received
37 at any time for recording or filing in the public records maintained by
38 the county recorder.

39 (f) The county recorder shall collect the fees prescribed by this
40 section for the sale of recorded documents in bulk form copies to bulk
41 users of public records. The county recorder shall pay the fees into the
42 county treasury at the end of each calendar month. The fees prescribed

C
o
p
y



and collected under this section supersede all other fees for bulk form copies required by law to be charged for services rendered by the county recorder to bulk users.

(g) Except as provided by subsection (h), the county recorder shall charge bulk users the following for bulk form copies:

(1) Five cents (\$0.05) per page for a recorded document, including the index of the instrument number or book and page, or both, for retrieving the recorded document.

(2) Five cents (\$0.05) per recorded document for a copy of the other indices used by the county recorder for finding, retrieving, and viewing a recorded document.

(h) As used in this subsection, "actual cost" does not include labor costs or overhead costs. The county recorder may charge a fee that exceeds the amount established by subsection (g) if the actual cost of providing the bulk form copies exceeds the amount established by subsection (g). However, the total amount charged for the bulk form copies may not exceed the actual cost plus one cent (\$0.01) of providing the bulk form copies.

(i) The county recorder shall provide bulk users with bulk form copies in the format or medium in which the county recorder maintains the recorded documents and indices. If the county recorder maintains the recorded documents and indices in more than one (1) format or medium, the bulk user may select the format or medium in which the bulk user shall receive the bulk form copies. If the county recorder maintains the recorded documents and indices for finding, retrieving, and viewing the recorded documents in an electronic or a digitized format, a reasonable effort shall be made to provide the bulk user with bulk form copies in a standard, generally acceptable, readable format. Upon request of the bulk user, the county recorder shall provide the bulk form copies to the bulk user within a reasonable time after the recorder's archival process is completed and bulk form copies become available in the office of the county recorder.

(j) Bulk form copies under this section may be used:

(1) in the ordinary course of the business of the bulk user; and

(2) by customers of the bulk user.

The bulk user may charge its customers a fee for using the bulk form copies obtained by the bulk user. However, bulk form copies obtained by a bulk user under this section may not be resold.

(k) All revenue generated by the county recorder under this section shall be deposited in the recorder's record perpetuation fund and used by the recorder in accordance with ~~IC 36-2-7-10(e)~~ **IC 36-2-7-10(e).**

(l) This section does not apply to enhanced access under

C
o
p
y



1 IC 5-14-3-3.

2 SECTION 13. IC 36-2-12-13 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 13. (a) A person may,
4 for excavation, mineral extraction, or other purposes related to the
5 person's business, temporarily remove a monument marking a corner.
6 The person must notify in writing the county surveyor at least thirty
7 (30) days before removing the monument. The person must replace the
8 monument within a reasonable time at the person's expense under the
9 supervision of the county surveyor or, if the county surveyor is not
10 registered under IC 25-21.5 or IC 25-31, the registered person who is
11 selected under section 11 of this chapter. The surveyor shall file a copy
12 of the notice in the corner record book.

13 (b) Only a county surveyor or a designee may change the location
14 of any monument. A person who wishes to have the location of a
15 monument changed must make a request to the surveyor in writing and
16 furnish written approval of all landowners whose property is affected
17 by the proposed change. The surveyor may approve, reject, or modify
18 the request and shall file a copy of the notice and the landowners'
19 consents in the corner record book.

20 (c) When, in the construction or maintenance of a county or
21 municipal road or street, it is necessary to remove or bury a monument
22 marking a corner, the owner of the public right-of-way shall notify the
23 county surveyor in writing at least fifteen (15) days before commencing
24 the work.

25 **(d) A county legislative body may adopt an ordinance:**

- 26 **(1) prohibiting a person from moving, changing, or otherwise**
27 **altering a monument marking a corner without complying**
28 **with this section; and**
29 **(2) prescribing a monetary penalty for a violation of the**
30 **ordinance.**

31 **Any money collected shall be deposited in the county surveyor's**
32 **corner perpetuation fund.**

33 SECTION 14. IC 36-2-12-16 IS ADDED TO THE INDIANA
34 CODE AS A NEW SECTION TO READ AS FOLLOWS
35 [EFFECTIVE JULY 1, 2001]: **Sec. 16. The surveyor shall replace**
36 **worn maps and plats as required by IC 36-2-17-5(c).**

37 SECTION 15. IC 36-2-17-5 IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) If it is necessary
39 to preserve the records of:

- 40 (1) the circuit court clerk's office;
41 (2) the county auditor's office;
42 (3) the county treasurer's office;

C
o
p
y



(4) the county recorder's office;

(5) the county sheriff's office; ~~or~~

(6) a court of record; **or**

(7) the county surveyor's office;

from damage, the county executive shall order the officer in charge of the records to copy them in suitable books procured by him for that purpose. The executive shall specify in its order the particular records or parts of records to be copied.

(b) If:

(1) parts of a county's records have been destroyed;

(2) the remaining parts of the records have been copied to preserve them from damage; and

(3) the proper holder of the original documents on which the records were based presents those documents to the officer in charge of the records;

the officer in charge of the records shall use the original documents to complete the records, and, if the original index no longer exists, shall index the completed records.

(c) If a map or plat in the office of the county auditor, ~~or~~ county recorder, **or county surveyor** is so worn or defaced that it is not fit for use, the auditor, ~~or~~ recorder, **or surveyor** shall make an accurate copy of the legible part of the map or plat. If a part of the map or plat is illegible, the auditor or recorder shall resort to the most accurate sources to complete the copy.

(d) Copies of records made under this section have the same force as the original records. Certified transcripts of copies of records made under subsection (a) of this section have the same force as transcripts of the original records.

(e) Control of the county recorder's records, including copying, storage, and retrieval is the responsibility of the county recorder.

(f) Control of the county surveyor's records, including copying, storage, and retrieval is the responsibility of the county surveyor.

SECTION 16. IC 36-4-3-22, AS AMENDED BY P.L.14-2000, SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 22. (a) The clerk of the municipality shall do the following:

(1) File each annexation ordinance against which a remonstrance or an appeal has not been filed during the period permitted under this chapter or the certified copy of a judgment ordering an annexation to take place with:

(A) the county auditor of each county in which the annexed territory is located;

C
o
p
y



- 1 (B) the circuit court clerk of each county in which the annexed
 2 territory is located;
 3 (C) if a board of registration exists, the registration board of
 4 each county in which the annexed territory is located; and
 5 (D) the office of the secretary of state.
 6 (2) Record each annexation ordinance adopted under this chapter
 7 in the office of the county recorder of each county in which the
 8 annexed territory is located.
 9 (b) The copy must be filed and recorded no later than ninety (90)
 10 days after:
 11 (1) the expiration of the period permitted for a remonstrance or
 12 appeal; or
 13 (2) the delivery of a certified order under section 15 of this
 14 chapter.
 15 (c) Failure to record the annexation ordinance as provided in
 16 subsection (a)(2) does not invalidate the ordinance.
 17 (d) The county auditor shall forward a copy of any annexation
 18 ordinance filed under this section to the following:
 19 (1) The county highway department of each county in which the
 20 lots or lands affected are located.
 21 (2) The county surveyor of each county in which the lots or lands
 22 affected are located.
 23 (3) Each plan commission, if any, that lost or gained jurisdiction
 24 over the annexed territory.
 25 (4) The sheriff of each county in which the lots or lands affected
 26 are located.
 27 (5) The township trustee of each township that lost or gained
 28 jurisdiction over the annexed territory.
 29 (6) The office of the secretary of state.
 30 (e) The county auditor may require the clerk of the municipality to
 31 furnish an adequate number of copies of the annexation ordinance or
 32 may charge the clerk a fee for photoreproduction of the ordinance. The
 33 county auditor shall notify the office of the secretary of state of the date
 34 that the annexation ordinance is effective under this chapter.
 35 (f) The county auditor **or county surveyor** shall, upon determining
 36 that an annexation ordinance has become effective under this chapter,
 37 indicate the annexation upon the property taxation records maintained
 38 in the office of the auditor **or the office of the county surveyor**.
 39 SECTION 17. IC 36-7-4-208, AS AMENDED BY P.L.103-2000,
 40 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JANUARY 1, 2002]: Sec. 208. (a) ADVISORY. The county plan
 42 commission consists of nine (9) members, as follows:

C
O
P
Y



(1) One (1) member appointed by the county executive from its membership.

(2) One (1) member appointed by the county fiscal body from its membership.

(3) The county surveyor or a qualified deputy surveyor appointed by the surveyor.

(4) The county agricultural extension educator.

(5) Five (5) members appointed in accordance with one (1) of the following:

(A) Four (4) citizen members, of whom no more than two (2) may be of the same political party and all four (4) of whom must be residents of unincorporated areas of the county, appointed by the county executive. Also one (1) township trustee, who must be a resident of an unincorporated area of the county, appointed by the county executive upon the recommendation of the township trustees whose townships are within the jurisdiction of the county plan commission.

(B) Five (5) citizen members, of whom not more than three (3) may be of the same political party, and all five (5) of whom must be residents of unincorporated areas of the county appointed by the county executive.

If a county executive changes the plan commission from having members described in clause (B) to having members described in clause (A), the county executive shall appoint a township trustee to replace the first citizen member whose term expires and who belongs to the same political party as the township trustee. Each member appointed to the commission is entitled to receive compensation for mileage at the same rate and the same compensation for services as a member of a county executive, a member of a county fiscal body, a county surveyor, or an appointee of a county surveyor receives for serving on the commission, as set forth in section 222.5 of this chapter.

(b) ADVISORY. The metropolitan plan commission consists of nine (9) members, as follows:

(1) One (1) member appointed by the county legislative body from its membership.

(2) One (1) member appointed by the second class city legislative body from its membership.

(3) Three (3) citizen members who are residents of unincorporated areas of the county, of whom no more than two (2) may be of the same political party, appointed by the county legislative body. One (1) of these members must be actively

C
o
p
y



engaged in farming.

(4) Four (4) citizen members, of whom no more than two (2) may be of the same political party, appointed by the second class city executive. One (1) of these members must be from the metropolitan school authority or community school corporation and a resident of that school district, and the other three (3) members must be residents of the second class city.

(c) AREA. When there are six (6) county representatives, they are as follows:

(1) One (1) member appointed by the county executive from its membership.

(2) One (1) member appointed by the county fiscal body from its membership.

(3) The county superintendent of schools, or if that office does not exist, a representative appointed by the school corporation superintendents within the jurisdiction of the area plan commission.

(4) **One (1) of the following appointed by the county executive:**

(A) The county agricultural extension educator.

(B) The county surveyor or the county surveyor's designee who is a qualified deputy surveyor.

(5) One (1) citizen member who is a resident of the unincorporated area of the county, appointed by the county executive. ~~and~~

(6) One (1) citizen member who is a resident of the unincorporated area of the county, appointed by the county fiscal body.

(d) AREA. When there are five (5) county representatives, they are the representatives listed in ~~subdivisions (3), (4), (5), and (6) of this or~~ **appointed under subsection (c)(3), (c)(4), (c)(5), and (c)(6) and:**

(1) the county surveyor or the county surveyor's designee who is a qualified deputy surveyor if the county executive appoints the county agricultural extension educator under subsection (c)(4); or

(2) the county agricultural extension educator if the county executive appoints the county surveyor under subsection (c)(4).

~~(d)~~ **(e) AREA.** The appointing authority may appoint an alternate member to participate on a commission established under section 204 of this chapter in a hearing or decision if the regular member it has appointed is unavailable. An alternate member shall have all of the powers and duties of a regular member while participating on the

C
o
p
y



commission.

SECTION 18. IC 36-9-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) The following persons may attend the annual road school at Purdue University:

(1) The ~~county surveyor or~~ county engineer of each county, and any other person authorized by the county executive.

(2) The civil engineer and traffic engineer of each municipality, and any other person authorized by the municipal executive.

(b) The county surveyor shall attend the annual road school at Purdue University.

SECTION 19. IC 36-9-27-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11. All expenses of the board shall be paid from money appropriated from the county ~~general fund~~ **maintenance fund as provided for in section 44 of this chapter**. Claims for expense reimbursements and per diem must be:

(1) accompanied by an itemized written statement;

(2) approved by a recorded motion of the board; and

(3) allowed as provided by statute.

SECTION 20. IC 36-9-27-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 14. (a) Whenever it appears to the county surveyor that any proceedings instituted under this chapter may affect land in more than one (1) county, he shall immediately forward notification of that fact to the chairman of the board of each county in which the land is located, by certified mail with return receipt requested. The notice must state the number of counties involved and fix a date, hour, and place for a meeting of a joint board. The date for the meeting may not be less than twenty (20) nor more than thirty (30) days after the notice is mailed.

(b) After the notice is given, all proceedings in the matter shall be heard and determined by a board appointed from the membership of the board of each county in which lands that may be affected are located, as follows:

(1) If land in two (2) counties may be affected, the chairman of the board of each county shall appoint two (2) of the members of his board, other than the county surveyor, to serve on the joint board. In addition, a fifth member shall be appointed by the four (4) members of the joint board. The fifth member must reside in a county that is not affected by the drainage problem.

(2) If land in more than two (2) counties may be affected, the chairman of the board of each county shall appoint one (1) of the members of his board, other than the county surveyor, to serve on the joint board. **If, as a result of the appointments, the board**

C
o
p
y



1 **has an even number of members, the members of the joint**
 2 **board shall appoint an additional member to the joint board.**
 3 **The additional member must reside in a county that is not**
 4 **affected by the drainage problem.**

5 (3) The surveyor of the county having the greatest length of drain
 6 or proposed drain serves as an ex officio member of the joint
 7 board, and has the same duties, powers, and responsibilities he
 8 would have if the proposed construction, reconstruction, or
 9 maintenance affected lands lying solely within one (1) county.

10 (c) A joint board may authorize the employment of one (1) or more
 11 persons to assist the county surveyor who serves on the board in the
 12 performance of his duties in connection with the joint board. The joint
 13 board shall set the rate of compensation for the assistants and authorize
 14 an advance on the general drain improvement fund of each county in
 15 proportion to the apparent percentage of the total land area in each
 16 county to be affected by the drain. The cost of the assistants and the
 17 advance is a part of the operating expense of the joint board, which
 18 shall be finally adjusted and allocated as provided in subsection (e).

19 (d) Whenever the county surveyor finds that a joint board should be
 20 appointed and that:

- 21 (1) the area of affected land in his county exceeds eighty percent
 22 (80%) of the total area of land affected by the drain; or
 23 (2) ninety percent (90%) or more of the length of the affected
 24 drain lies within his county;

25 he may request in writing that each board in the lesser affected county
 26 or counties waive the right to be represented on a joint board and that
 27 the board of his county be the board for the proceedings. The request
 28 and all subsequent communications in the proceedings, including
 29 notice of any benefits or damages to the lands within a lesser affected
 30 county, shall be forwarded by certified mail with return receipt
 31 requested to the chairman of the board of each lesser affected county.
 32 If the surveyor does not receive a negative response to his request from
 33 the board of a lesser affected county within thirty (30) days, the
 34 surveyor may request his board to resolve itself as the board for the
 35 proceedings. The board shall serve notice only on the board of a lesser
 36 affected county and shall certify to the auditor of that county a single
 37 claim for all benefits in that county, unless the surveyor or board of that
 38 county furnishes to the board full and acceptable information
 39 concerning all individual parcels of affected land in that county,
 40 including maps.

41 (e) If the joint board proceeds with the proposed improvement or
 42 maintenance, all operating expense of the joint board, including the

C
O
P
Y



1 compensation of the fifth member appointed under subsection (b)(1)
 2 **and the additional member appointed under subsection (b)(2)** shall
 3 be:

4 (1) divided among the counties represented on it in the same
 5 proportion that the total land assessment allocated to each county
 6 bears to the total cost of the improvement or maintenance; **or**

7 **(2) paid from the joint drain's maintenance fund after the**
 8 **fund is established and maintenance funds are collected.**

9 If the joint board does not proceed, all operating expense of the joint
 10 board shall be apportioned by the joint board to the counties
 11 represented on it as justice requires.

12 (f) To the extent applicable, a joint board is governed by the
 13 provisions of this chapter concerning:

14 (1) the powers, duties, and procedures of a board that serves one
 15 (1) county; and

16 (2) the rights and remedies of owners affected by the proceedings
 17 of a board that serves one (1) county.

18 SECTION 21. IC 36-9-27-43 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 43. If in any year a
 20 maintenance fund established under section 44 of this chapter has an
 21 unencumbered balance equal to or greater than four (4) times the
 22 estimated annual cost of periodically maintaining the drain for which
 23 the fund was established, the annual assessment for the maintenance of
 24 that drain ~~shall~~ **may** be omitted for that year.

25 SECTION 22. IC 36-9-27-43.5 IS ADDED TO THE INDIANA
 26 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 27 [EFFECTIVE JULY 1, 2001]: **Sec. 43.5. If in any year a maintenance**
 28 **fund established under section 44 of this chapter has an**
 29 **unencumbered balance equal to or greater than eight (8) times the**
 30 **estimated annual cost of periodically maintaining the drain for**
 31 **which the fund was established, the annual assessment for the**
 32 **maintenance of that drain shall be omitted for that year.**

33 SECTION 23. IC 36-9-27-45 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 45. A maintenance
 35 fund established under section 44 of this chapter is subject to the use
 36 of the board for the necessary or proper repair, ~~or~~ maintenance, **study,**
 37 **or evaluation** of the particular drain or combination of drains, which
 38 may be done whenever the board, upon the recommendation of the
 39 county surveyor, finds that it is necessary. The payment for all such
 40 maintenance work shall be made out of the appropriate maintenance
 41 fund. However, if:

42 (1) a maintenance fund has not been established for the drain or



C
O
P
Y

1 combination of drains; or

2 (2) a maintenance fund has been established but it is not sufficient
3 to pay for the work;

4 the general drain improvement fund shall be used to pay the cost of the
5 work or to pay for the deficiency, and the general drain improvement
6 fund shall be reimbursed from the appropriate maintenance fund when
7 it is established or becomes sufficient.

8 SECTION 24. IC 36-9-27-71, AS AMENDED BY P.L.241-1999,
9 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2001]: Sec. 71. (a) When, in the construction or reconstruction
11 of a regulated drain, the county surveyor determines that the proposed
12 drain will cross a public highway or the right-of-way of a railroad
13 company at a point where:

14 (1) there is no crossing; or

15 (2) the crossing will not adequately handle or will be endangered
16 by the flow of water from the drain when completed;

17 the county surveyor shall include in the plans the grade and cross
18 section requirements for a new crossing, or the requirements for
19 altering, enlarging, repairing, or replacing the crossing. The surveyor
20 shall mail a copy of the requirements addressed to the owner of the
21 highway or right-of-way.

22 (b) When requested by the owner of the highway or right-of-way,
23 the county surveyor shall meet with the owner at a time and place to be
24 fixed by the surveyor. The surveyor shall hear objections to the
25 requirements, and may then change the requirements as justice may
26 require.

27 (c) When the board finds that in the construction, reconstruction, or
28 maintenance of a regulated drain it is necessary to:

29 (1) alter, enlarge, repair, or replace a crossing; or

30 (2) construct a new crossing where none existed before;

31 the cost of the work on the crossing shall be paid by the owner of the
32 public highway. This cost may not be considered by the county
33 surveyor or by the board in determining the cost of the work on the
34 drain or in assessing benefits and damages. However, if it is necessary
35 for the owner of a public highway to construct a new crossing because
36 of a cut-off for the purpose of shortening or straightening a regulated
37 drain, the owner of the public highway shall pay one-half (1/2) of the
38 cost of the new crossing, and the remainder shall be included in the
39 cost of the work on the drain.

40 (d) A railroad company with a right-of-way that is:

41 (1) crossed by the construction of a regulated drain; or

42 (2) affected by the altering or enlarging of a crossing;

C
o
p
y



shall pay one-half (1/2) of the cost of the work on the crossing and the remainder shall be included in the cost of the work on the drain.

(e) If the county surveyor is registered under IC 25-31, the county surveyor must review and approve or disapprove the plans and hydraulic data for an existing crossing that is to be altered, enlarged, repaired, or replaced, or the construction of a new crossing for a public highway or the right-of-way of a railroad company. The county surveyor shall disapprove the plans and hydraulic data if they do not show that the structure will meet ~~structural and~~ hydraulic requirements that will permit the drain to function properly.

(f) If the county surveyor is registered under IC 25-21.5, the county surveyor must review and approve or disapprove the plans and hydraulic data for an existing crossing that is to be altered, enlarged, repaired, or replaced or the construction of a new crossing for a public highway or the right-of-way of a railroad company. The county surveyor shall disapprove the plans and hydraulic data if they do not show that the structure will meet hydraulic requirements that will permit the drain to function properly.

(g) Approval of the plans and hydraulic data by a person who is registered under IC 25-21.5 or IC 25-31 is required before the work can take place. However, if the county surveyor is not registered under IC 25-21.5 or IC 25-31, a registered person who is selected under section 30 of this chapter shall:

- (1) review and approve or disapprove the plans and specifications described in this subsection;
- (2) inform the county surveyor in writing of the approval or disapproval; and
- (3) submit all plans, specifications, and hydraulic data along with the approval or disapproval.

SECTION 25. IC 36-9-27-72 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 72. (a) When, in the reconstruction or periodic maintenance of a regulated drain, the county surveyor determines that a private crossing will not adequately handle the flow of water from the drain or will be endangered by such flow, he shall in his plans call for the removal of the crossing.

(b) The replacement of a private crossing, when necessary, may be accomplished as a part of the work of the reconstruction or maintenance. The estimate by the county surveyor of the cost for the replacement shall be assessed against the land that would otherwise be deprived of ingress and egress. However, when a private crossing has been lawfully established and maintained, the board may assess any part of the cost of its replacement against all affected lands.



C
o
p
y

(c) A private crossing, control dam, or other permanent structure may not be placed over or through an open drain unless the plans and specifications for the structure are first approved by the county surveyor. The surveyor shall disapprove the plans and specifications if they do not show that the structure will meet ~~structural and~~ hydraulic requirements that will permit the drain to function properly.

(d) All maintenance of a private crossing or of a private structure within the drain, whether privately constructed or constructed as a part of work on a drain under this chapter, is the responsibility of the owners of land served by the private crossing or structure. The owners are directly responsible for any obstruction or damage to the drain that results from the existence of the private crossing or structure, notwithstanding any other provisions of this chapter.

SECTION 26. IC 36-9-27.4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. As used in this chapter, "natural surface watercourse" means an area of the surface of the ground over which water from falling rain or melting snow occasionally and temporarily flows in a definable direction **and channel.**

SECTION 27. IC 36-9-27.4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 12. (a) If a petition filed under this chapter alleges the obstruction of:

- (1) a drain; or
- (2) a natural surface watercourse;

the county surveyor of the county in which the obstruction is alleged to exist shall promptly investigate whether the obstruction exists.

(b) If the county surveyor, upon investigation, finds an existing obstruction in a drain or natural surface watercourse in the location alleged in the petition, the county surveyor shall report the existence of the obstruction to the drainage board.

(c) Upon receiving a report from the county surveyor under subsection (b), the drainage board shall:

- (1) set a date for a hearing on the petition; and
- (2) serve notice of the hearing on each owner of the land on which the obstruction exists who can be identified in the records of the county recorder.

(d) The hearing must be held at least thirty (30) days but less than ninety (90) days after the date of the filing of the petition.

(e) Notice of a hearing must be ~~served on~~ **mailed to** each respondent **with return receipt requested.** ~~in the manner prescribed in:~~

~~(1) Rule 4.1 of the Indiana Rules of Trial Procedure, in the case~~



1 of a respondent who is an individual, or
 2 (2) Rule 4.6 of the Indiana Rules of Trial Procedure, in the case
 3 of a respondent that is an organization.

4 SECTION 28. IC 36-9-27.4-19 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 19. (a) If:

6 (1) a petition filed under this chapter concerns a drain; and

7 (2) the drainage board:

8 (A) finds for the petitioner under section 14(a) of this chapter;
 9 but

10 (B) does not find under section 15 of this chapter that the
 11 obstruction of the drain was created intentionally by any of the
 12 respondents;

13 the drainage board shall enter an order under subsection (b).

14 (b) Upon a determination made under subsection (a), the drainage
 15 board shall enter an order:

16 (1) authorizing the petitioner to remove the obstruction;

17 (2) authorizing the respondents to remove the obstruction;

18 (3) directing the county surveyor to remove the obstruction; or

19 (4) directing that the obstruction be removed through the joint
 20 efforts of at least two (2) of the persons referred to in this
 21 subsection.

22 (c) If an order is issued under subsection (b), the costs of removing
 23 the obstruction must be borne by the owners of all the tracts of land
 24 that are benefited by the drain. The order of the board must do the
 25 following:

26 (1) Identify all tracts of land that are benefited by the drain.

27 (2) Identify the owners of the tracts of land referred to in
 28 subdivision (1):

29 (A) who are known to the drainage board; or

30 (B) whose identity can be determined through the records of
 31 the county ~~recorder~~ **auditor**.

32 (3) Apportion the costs of removing the obstruction among the
 33 tracts of land that are benefited by the drain, assigning to each
 34 tract a certain percentage of the total costs.

35 (4) Order the owners of each tract of land referred to in
 36 subdivision (1) to pay an amount equal to the product of the total
 37 costs of removing the obstruction multiplied by the percentage
 38 assigned to the tract under subdivision (3).

39 (d) The percentage of the total costs assigned to a tract under
 40 subsection (c)(3) must correspond to the ratio of the total length of the
 41 drain to the length of the particular segment of the drain that benefits
 42 the tract.

C
O
P
Y

